

### Remarks/Arguments

Claims 2, 3, 9, 11-24 remain in this application. Claim 4 has been canceled in this Response.

Claims 2, 3, 9, 11, 12, 14-16 and 21 have been rejected under 35 USC 102(b) over FR 2 233 626. Applicant disagrees.

The claims as amended make clear the present invention uses a porous membrane as its starting material for the porous/nonporous layer. Area(s) of nonporous material are created in the porous membrane as taught by the specification of the present invention and the rest of the areas of the membrane remain porous and form the area(s) of porous material. This is quite unlike the reference which forms a flocked surface of fibers that trap or hold liquid within and/or between them. It fails to teach using a porous membrane and as such it fails to anticipate the current claims.

Claims 2, 3, 11, 12 and 14-21 have been rejected under 35 USC 102(b) over EP 272 043. Applicant disagrees.

It is stated in the Office action that the reference's "liquophobic zone 21 would be inherently a non-porous region" and that the reference thus teaches a well having "two layers of a porous structure having one area of porous material 13, 15 and one area of non-porous material 21." Based upon this interpretation of the reference it is the Office Action's position that the reference anticipates the claims. Applicant disagrees.

Each layer 13 and 15 is described in the reference as being made of a porous material (see Column 2, lines 18-20 "a reaction or filtration layer formed from a thin, liquophilic microporous membrane..." [layer 13] and column 8, lines 44-45, "a porous sealing layer which serves several

purposes. Strongly preferred for use as a sealing layer is a very porous liquophobic structure." [layer 15]).

It is clear the reference uses a porous, preferably very porous liquophobic structure in its invention. In fact, it is stated that the sealing layer is "significantly more porous than the reaction layer." (Column 9, line 19-20)

Moreover, the reference goes on to teach "The term "liquophobic" as used herein is effectively the obverse of the term "liquophilic", that is, a liquophobic materials has a critical surface energy lower than the surface tension of the applied liquid and is not readily or spontaneously wetted by the applied liquid(s)." (Column 8, lines 47-52).

This material (the porous liquophobic material) forms the liquophobic seal (Column 9, line 1).

Additionally, the reference never teaches forming a non-porous structure at the seal area 21. In fact it clearly states to the contrary, "As a result of the heat process used, a dense, somewhat compacted, liquophobic zone 21 is provided at the periphery of each well ...." (Column 14, lines 8-9). The plain teachings of the reference makes it clear that at best the area 21 is slightly less porous than the rest of the layer (be it 13 or 15) but it is still as admitted by the reference porous.

The reference fails to teach a layer that is formed of a porous membrane in which one or more areas have been rendered non-porous as is required by the present claims. The interpretation asserted by the examiner is not supported by and is clearly contrary to the plain and unambiguous teachings of the reference itself. As such, the reference and the asserted interpretation of it fails to anticipate the present claims.

Reconsideration and allowance are respectfully requested in view of the foregoing amendment and remarks.

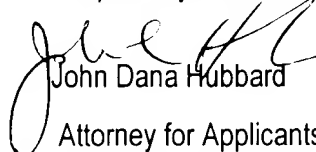
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Reply to Office Action of May 14, 2003



Respectfully submitted,

  
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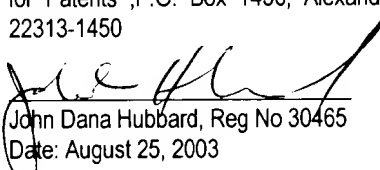
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